

**Harris County Attorney's Office – EPA  
January 6, 2010 Meeting  
Action Items**

**I. Cleaning up San Jacinto River Waste Pits Superfund Site**

**Action Item:** Harris County Attorney's Office (HCAO) wants to be recognized by EPA as a Local Expert Advisor and be included on the EPA Natural Resource Trustees Team to fully participate in a sharing, collaborative effort, while recognizing EPA as the lead agency.

**Response:** On February 3, 2010, EPA met with the HCAO and the Texas Commission on Environmental Quality (TCEQ) to discuss this issue and available options. TCEQ outlined the process for HCAO to pursue trustee status through the Governor's office. Three agencies have been designated as state natural resources trustees: TCEQ, Texas Parks and Wildlife Department and the Texas General Land Office. EPA and HCAO discussed other ways to involve HCAO in the site's technical discussion and document reviews. EPA Region 6 will form a site team with HCAO technical staff to address their technical concerns. A Memorandum of Understanding between EPA and HCAO outlining this agreement will be drafted.

**Action Item:** HCAO wants EPA to use their authority (i.e., unilateral order authority) to "compel the companies to fund a robust community awareness campaign on the dangers of dioxin in the fish and crab."

**Response:** On December 10, 2009, EPA, the HCAO, the Houston-Galveston Area Council and the Port of Houston Authority formed a Community Relations Team. The team was tasked with developing a communication strategy to educate the public about public health issues related to the site. During a subsequent meeting on February 3, 2010, the team reported on their public awareness efforts. During this meeting, EPA explained its limited authority to obtain funding from potentially responsible parties (PRPs) for public awareness.

EPA is committed to informing the public about our activities at the site and community involvement activities are continuous. EPA has drafted a Community Involvement Plan containing input from local officials and the community. Elements of this plan are being implemented by the PRPs under the direction and oversight of EPA. Ongoing and future community involvement activities include meetings with the community at important technical milestones, responding to inquiries from the media, and providing local officials with site status information (i.e., regular face-to-face meetings with HCAO on the site status).

In addition, communities may participate in the remedial investigation/feasibility study (RI/FS) process through Technical Assistant Grants (TAGs) and Community Advisory Groups (CAGs). TAGs provide resources to eligible communities affected by Superfund Sites to acquire independent technical assistance to help them understand and comment on site-related information. CAGs are made up of diverse community representatives who present and discuss their needs and concerns about the decision-making process at sites affecting them.

**Action Item:** HCAO wants EPA to use its authority to compel swift, short- and long-term measures to curb dioxin.

**Response:** EPA has partnered with HCAO to facilitate the speedy implementation of cleanup efforts at the San Jacinto River Waste Pits Superfund Site (Site) while keeping the public informed of the agency's action. Harris County is providing assistance to EPA in developing a plan to prevent the public from accessing the site and helping with identifying and securing access to properties that need to be sampled as part of the Site. In addition, EPA is meeting with Harris County on a regular basis to discuss outstanding issues relating to the cleanup activities and the Site.

EPA is committed to cleaning up the Site as quickly as possible. EPA will use whatever tools are available to ensure timely cleanup of the Site, including both long-term cleanups, as well efforts to stabilize the site until a long-term remedy is determined. To that end, the PRPs are conducting the RI/FS delineating the nature and extent of contamination under a Unilateral Administrative Order issued on November 20, 2009. In addition, EPA is negotiating site stabilization under an Administrative Order on Consent. If negotiations are not completed in a timely manner, EPA will utilize other authorities to ensure swift actions to stabilize the site.

## **II. Supporting US-Canada Application for Emission Control Area**

**Action Item:** HCAO would like the Regional Administrator to highlight Harris County's support for the US-Canada application for the Emissions Control Area (ECA) to the EPA Administrator, and, as an important port city, for EPA to include HCAO as part of its delegation to the International Maritime Organization (IMO) in March 2010.

**Response:** Mr. Thomas Diggs of my staff has participated in several teleconferences with Ms. Snehal Patel on this issue. EPA, the U.S. Coast Guard, the State Department, and the rest of the U.S. Government delegation to the IMO have been working in concert to secure an ECA designation for U.S. coastlines, including the entire Texas coast.

The lead EPA office working to secure an ECA designation for U.S. coastlines said the most helpful and appropriate means for Harris County to express support for the

proposal would be by attending the public meeting the Coast Guard will hold before the upcoming IMO meeting. Information from the Coast Guard about this meeting follows and is available on the Internet at <http://www.uscg.mil/imo/mepc/default.asp>

The U.S. delegation holds a public meeting several weeks prior to departing for the IMO meeting. The purpose of the public meeting is to provide an opportunity for the public to interface with the Coast Guard on the U.S. position for each agenda item. The basic meeting details are below, however for more information please contact LCDR Brian Moore.

Meeting Date: Tuesday, March 9th, 2010; at 9:30 a.m.  
Meeting Location: Coast Guard Headquarters Room 2415  
2100 Second Street SW  
Washington, DC 20593

Ms. Patel also wanted to know who is included in the delegation and who would be the best contact for consideration of Harris County as a delegate to the IMO meeting in London on March 22-26, 2010. Delegates are decided by Mr. Jeffrey Lantz, Director of Commercial Regulations and Standards for Marine Safety, Security, and Stewardship, U.S. Coast Guard. His telephone number is (202) 372-1351. Mr. Lantz leads the U.S. delegation at the IMO. More details are at these Web sites:

<http://coastguard.dodlive.mil/index.php/2009/12/jeffrey-lantz-elected-council-chair-of-the-international-maritime-organization/>

<http://www.uscg.mil/hq/cg5/cg52/>

**Action Item:** HCAO would like EPA to assist them in getting maximum coverage at the IMO MEPC of the Harris County resolution and supporting film available at [www.youtube.com/harriscountyattorney](http://www.youtube.com/harriscountyattorney)

**Response:** We shared the resolution and film with the Mr. Byron Bunker at EPA's Office of Transportation and Air Quality in Ann Arbor, Michigan, and key members of his staff.

### **III. Partnering with EPA on Enforcement**

**Action Item:** HCAO would like to meet with the Region 6 Compliance Assurance and Enforcement staff to explore ways we can work together to enforce against polluters.

**Response:** Region 6 welcomes the opportunity and a meeting will be scheduled in March 2010.

**Action Item:** EPA would like to talk with HCAO about the possible use of Supplemental Environmental Projects in county enforcement cases.

**Response:** This will be added to the agenda for our March 2010 meeting.

#### **IV. State Implemental Plan (SIP) Disapproval: Public participation/permitting**

**Action Item:** HCAO wants EPA to take a firm stance requiring TCEQ to adhere to deadlines to demonstrate compliance and compel a major overhaul of the public participation rules in the SIP

**Response:** EPA proposed to disapprove TCEQ's public participation rules on November 28, 2008. TCEQ has already proposed a revision to their public participation rules, and EPA filed comments on the currently proposed public participation rules. Our comments are enclosed.

**Action Item:** HCAO wants to provide their expertise to EPA on what works and what does not work when dealing with TCEQ on permitting and working with community groups and citizens in the area.

**Response:** EPA welcomes any input on individual permits from HCAO. In addition, we are always willing to meet with individual community groups or citizens to hear their concerns and to answer any questions they may have regarding permitting under the Clean Air Act.

**Action Item:** HCAO wants EPA to make permits more accountable and enforceable, especially flexible permits.

**Response:** EPA is reviewing selected permits proposed by the State and providing comments on individual draft permits to TCEQ. EPA also has issued a number of permit objections in recent months that have dealt with practical enforceability of permit terms and conditions.

**Action Item:** In addition to more notice opportunities, HCAO wants more "meaningful" participation by citizens in the TCEQ permit issuance process. Citizen's Requests for Hearings and comments are rejected too frequently by the Commissioners.

**Response:** EPA proposed disapproval of TCEQ's public participation rules on November 28, 2008. TCEQ has since proposed revisions to those rules. EPA is working to ensure that TCEQ's proposed revisions are consistent with minimum public participation provisions specified in federal air permit regulations. EPA Region 6's goal is to ensure that TCEQ's public participation rules are transparent and allow for public involvement.

## **V. Air Quality: Ozone, PM 2.5, Air Toxics, Proper Accounting of Emissions**

**Action Item:** HCAO wants EPA to recognize them as partners in cleaning up the region's air and developing innovative solutions.

**Response:** Region 6 Air Planning Section staff continues to partner with Ms. Patel and others on the HCAO staff on the Houston Regional Air Quality Planning Committee. EPA appreciates HCAO's participation on this regional planning committee and the importance you place on cleaning up the air in the Houston/Harris County area. As the most populated county in the area, it is vital that Harris County participate in solving air quality problems.

## **VI. Water Quality: Bacteria-Impaired Water Bodies**

**Action Item:** EPA's continued oversight of the Texas Program to ensure that bacteria limits, as adopted by TCEQ after pressure from EPA, are implemented correctly.

**Response:** The Region 6 Water Enforcement Branch is reviewing submitted draft municipal Texas Pollutant Discharge Elimination System (TPDES) permits to ensure they include bacteria effluent limits and monitoring requirements consistent with TCEQ rule changes. EPA will object to domestic TPDES permits that do not include appropriate bacteria limits. However, pursuant to the memorandum of agreement (MOA) between EPA and TCEQ, not every TPDES is submitted for EPA review. Since January 1, 2010, Region 6 has received two "minor" and four "major" TPDES permits for review - none of which are within Harris County. Region 6 is also working with TCEQ to ensure all MS4 permits with discharges to impaired water include interim pollutant reduction plans before Total Maximum Daily Load (TMDL) approval, and pollutant reduction plans consistent with TMDLs after they are approved.

**Action Item:** EPA commissioned the National Research Council to prepare a report on urban stormwater. Local governments were not in the group of advisors for the report. HCAO wants to share their knowledge of this issue and wants EPA to consider and apply this knowledge toward making key changes to clean up the water.

**Response:** EPA is in the early stages of a rulemaking effort to improve the National Pollutant Discharge Elimination System program, including regulations of post construction discharges. A questionnaire will be sent to various groups, including MS4s, later this summer. More information may be found at [www.epa.gov/npdes/stormwater/rulemaking](http://www.epa.gov/npdes/stormwater/rulemaking)

**Action Item:** HCAO wants EPA to support bacteria regrowth research and to work with HCAO on this research.

**Response:** The Region 6 Monitoring and Assessment Section staff and staff from EPA's Office of Science and Technology held a conference call on February 16, 2010, with Harris County and Harris County Flood Control District to discuss the County's concerns about high bacteria counts in area water bodies. We discussed some of EPA's ongoing bacteria indicator research and risk analyses work. EPA agreed to provide the County with updates on bacteria criteria research and criteria development. Both agencies agreed to continue dialogue on this topic and keep the County informed about possible funding/research partnership opportunities.

## **VII. Municipal Solid Waste: Oversight of TCEQ Program**

**Action Item:** HCAO wants more scrutiny and oversight by EPA of key TCEQ rulemakings concerning solid waste rules to ensure that the Texas delegated program is as stringent, or more so, than the federal program.

**Response:** EPA approved the Texas Solid Waste program in the early 1990s. We established minimum criteria that the state needed in order to get program approval. Changes to the state's solid waste regulations must be submitted to EPA if the changes are significant. We have engaged the state when we believed that changes might make their rules less stringent than the federal minimum criteria, and we will continue to do so.